

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

In the Matter of	)	
	)	
Service Rules for Advanced Wireless	)	WT Docket No. 04-356
Services in the 1915-1920 MHz, 1995-	)	
2000 MHz, 2020-2025 MHz and 2175-	)	
2180 MHz Bands	)	
	)	
Service Rules for Advanced Wireless	)	WT Docket No. 02-353
Services in the 1.7 GHz and 2.1 GHz	)	
Bands	)	
	)	

To: The Commission

**REPLY COMMENTS OF SOUTHERN LINC**

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Dated: February 8, 2005

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**REPLY COMMENTS OF SOUTHERN LINC**

Southern Communications Services, Inc. d/b/a Southern LINC (“Southern LINC”) hereby submits its Reply Comments in response to the Commission’s Notice of Proposed Rulemaking on service rules for licensed services, including advanced wireless services (AWS), in the 1915-1920/1995-2000 MHz band (the “H block”) and the 2020-2025/2175-2180 MHz band (the “J block”).<sup>1</sup>

Southern LINC joins with those commenters who support geographic licensing for AWS spectrum and urges the Commission to adopt Economic Areas (“EA”) as the appropriate geographic size for H block licenses. Southern LINC also supports the Commission’s proposals regarding flexible service rules for AWS and the issuance of 10-year licenses, renewable on the basis of the “substantial service” standard. Finally, while

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<sup>1</sup> / *Service Rules for Advanced Wireless Services in the 1915-1920 MHz, 1995-2000 MHz, 2020-2025 MHz and 2175-2180 MHz Bands; Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands*, WT Docket No. 04-356 and WT Docket No. 02-353, Notice of Proposed Rulemaking and Declaratory Ruling, FCC 04-218 (rel. September 24, 2004) (“*NPRM*”).

generally opposing spectrum aggregation limits for AWS, Southern LINC nevertheless urges the Commission to maintain appropriate competition safeguards for these bands.

## **I. INTRODUCTION**

Southern LINC is a wholly owned subsidiary of Southern Company, which is a registered holding company under the Public Utility Holding Company Act of 1935. As a Commercial Mobile Radio Service (“CMRS”) provider, Southern LINC operates a digital 800 MHz SMR system using Motorola’s proprietary Integrated Digital Enhanced Network technology to provide dispatch, interconnected voice, Internet access, and data transmission services over the same handset.

Southern LINC provides these services to more than 275,000 subscribers in a 127,000 square mile service territory covering Georgia, Alabama, southeastern Mississippi, and the panhandle of Florida. Southern LINC offers the most comprehensive geographic coverage of any mobile wireless service provider in Alabama and Georgia, serving the extensive rural territory within its footprint as well as major metropolitan areas and highway corridors. Furthermore, Southern LINC serves areas of Florida and Mississippi that are not served by any other advanced wireless dispatch provider.

## **II. LICENSING OF THE “H BLOCK” SPECTRUM**

### **A. Licensing on an Economic Area (“EA”) Basis**

Southern LINC agrees with the vast majority of commenters that licensing of AWS spectrum – particularly the 1915-1920/1995-2000 MHz H block – should be carried out geographically, with licenses issued on a regional basis. However, the Commission must ensure that the size of the relevant geographic area does not effectively preclude regional carriers from obtaining licenses in these bands. Southern LINC

therefore urges the Commission to adopt EAs as the appropriate geographic size for H block licenses.

As the Commission noted in the *NPRM*, the size of the initial geographic licensing areas would ideally match the business plans of the initial licensees.<sup>2</sup> However, it is evident in the comments received thus far in this proceeding that there is substantial diversity among potential initial licensees for this spectrum – including carriers with large nationwide footprints and carriers with smaller regional and rural footprints – resulting in a variety of diverse business plans. Southern LINC submits that the most effective way to address this diversity is through licensing on an EA basis. This approach would allow smaller regional carriers to meet their licensing and coverage needs while still providing larger carriers the opportunity to meet their super-regional or nationwide coverage needs through spectrum aggregation during the auction process.

Southern LINC is concerned that the use of geographic areas larger than EAs could make it difficult for carriers with non-nationwide coverage needs, especially local and regional carriers who provide service in rural as well as in metropolitan areas, to effectively participate in any auction for new H block licenses, thus hampering their ability to obtain access to this spectrum and to provide service to areas not normally served by the larger carriers.

Several commenters in this proceeding have advocated the use of Basic Trading Area (“BTA”) licensing utilizing the BTAs that were previously established for

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<sup>2</sup> / *NPRM* at ¶ 22.

broadband PCS.<sup>3</sup> However, as the Commission pointed out in the *NPRM*, these BTAs may not be available under the Rand McNally & Company copyright license.<sup>4</sup>

Therefore, Southern LINC urges the FCC to adopt EAs as the appropriate size for issuing H block licenses.

## **B. Licensing and Service Rules**

Southern LINC agrees with those commenters who support the Commission's proposal to provide licensees in the 1915-1920/1995-2000 MHz and 2020-2025/2175-2180 MHz bands flexibility in their use of this spectrum<sup>5</sup> and agrees with the Commission's tentative conclusion to license these bands under Part 27 of the Commission's Rules.<sup>6</sup>

Several commenters have urged that these bands be licensed under the Commission's Part 24 Broadband PCS rules instead, arguing that the adjacency of the broadband PCS frequencies requires application of the Part 24 technical and service rules in order to prevent potential interference and to make it easier and more cost effective for manufacturers and carriers to develop and deploy equipment and handsets that can operate on both the broadband PCS and AWS bands.<sup>7</sup> However, subjecting the H block AWS band to the Part 24 broadband PCS rules may not provide AWS licensees with the

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<sup>3</sup> / See, e.g., Comments of T-Mobile USA, Inc. at 12-14; Comments of Nextel Communications at 50-53; Comments of the Cellular Telecommunications and Internet Association ("CTIA") at 5.

<sup>4</sup> / *NPRM* at fn 47.

<sup>5</sup> / See Comments of CTIA at 2-4; Comments of Nextel at 2-3; Comments of the National Telecommunications Cooperative Association ("NTCA") at 2.

<sup>6</sup> / *NPRM* at ¶¶ 14-15.

<sup>7</sup> / See, e.g., Comments of Motorola at 11-12; Comments of Nextel at 3-7; Comments of the Rural Cellular Association ("RCA") at 5-6.

same degree of flexibility that is afforded under Part 27. As the Commission noted in the *NPRM*, licensing AWS under Part 27 would “promote flexibility and permit market forces to determine what services are ultimately offered in the bands.”<sup>8</sup> This goal of ensuring flexibility was the basis for the Commission’s prior decision to apply Part 27 to the 1.7 GHz and 2.1 GHz AWS bands,<sup>9</sup> and the application of Part 27 to the H block would be consistent with this determination. In addition, licensing the H and J blocks under Part 27 would provide regulatory consistency among all of the AWS bands.

Therefore, while Southern LINC recognizes the concerns that have been expressed regarding interference and interoperability, Southern LINC submits that these concerns would be best addressed through the relevant Part 27 technical rules, rather than by subjecting the H block to a rule part other than the one that applies to other AWS bands. Southern LINC notes that CTIA had no objection to the use of Part 27 for licensing the AWS bands in question, as long as the technical rules addressed broadband PCS concerns.<sup>10</sup>

### **C. License Terms and Conditions**

Southern LINC joins CTIA in its support of the Commission’s proposal for a 10-year license term for the bands addressed in this *NPRM*, combined with a renewal expectancy based on the Commission’s “substantial service” standard.<sup>11</sup> Southern LINC agrees with CTIA that a license term of 10 years or longer, together with a strong renewal

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<sup>8</sup> / *NPRM* at ¶ 15.

<sup>9</sup> / *See Service Rules for Advanced Wireless Services in the 1.7 and 2.1 GHz Bands*, WT Docket No. 02-353, Report and Order, 18 FCC Rcd 25162 (2003).

<sup>10</sup> / Comments of CTIA at 4.

<sup>11</sup> / *NPRM* at ¶ 70; Comments of CTIA at 7-8.

expectancy, will promote investment in and deployment of new, innovative wireless services and technologies.<sup>12</sup>

With respect to license conditions related to reimbursing UTAM for clearing the 1915-1920 MHz band, Southern LINC agrees with T-Mobile and Nextel that licensees in this band should not be required to reimburse UTAM until they commence operations, *i.e.*, when the licensee begins offering commercial service to the public.<sup>13</sup>

#### **D. Spectrum Aggregation and Market Concentration**

While Southern LINC concurs with CTIA that the Commission should generally refrain from imposing spectrum aggregation limits or eligibility restrictions on licensees in these bands, this should not be allowed to affect in any way the Commission's present and future ability to address potentially excessive concentration of these limited spectrum resources. Because spectrum – particularly licensed spectrum – is a finite resource with very high economic, technical and regulatory barriers to entry, the wireless market gives rise to special competition concerns that go beyond traditional market analysis. The Commission must therefore ensure that it preserves and maintains the ability to adopt measures including, but not limited to, the imposition and enforcement of carrier-specific remedies such as divestment in specific geographic markets if market conditions so warrant.

### **III. CONCLUSION**

As the Commission moves forward in developing final rules for AWS spectrum, Southern LINC urges the Commission to adopt Economic Areas ("EA") as the appropriate geographic size for H block licenses. Southern LINC also supports the

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<sup>12</sup> / Comments of CTIA at 8.

<sup>13</sup> / Comments of T-Mobile at 18; Comments of Nextel at 61-62.

adoption of flexible service rules for AWS and the issuance of 10-year licenses, renewable on the basis of the “substantial service” standard. Finally, while generally opposing spectrum aggregation limits for AWS, Southern LINC nevertheless urges the Commission to maintain appropriate competition safeguards.

**WHEREFORE, THE PREMISES CONSIDERED,** Southern LINC respectfully requests the Commission to take action in this docket consistent with the views expressed herein.

Respectfully submitted,

**SOUTHERN LINC**

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